



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AJ Kern for Congress
John W. Kern, Treasurer
P.O. Box 99
Sartell, MN 56377

FEB 13 2019

RE: MUR 7453

Dear Mr. Kern:

On August 6, 2018, the Federal Election Commission ("Commission") notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On February 9, 2019, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that AJ Kern for Congress and you in your official capacity as treasurer violated provisions of the Act. The Commission then closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1518.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
General Counsel's Report

the time of the sponsored Facebook posts, and the posts were not intended as an expense for the candidate's 2016 Committee.⁴ Finally, the Committee admits that it inadvertently failed to report purposes for five of the nine disbursements on its 2018 July Quarterly Report, and it corrected these omissions on the Committee's Second Amended 2018 July Quarterly Report.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating, the Committee's amended reports, and the modest amounts at issue, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all Respondents and send the appropriate letters.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

⁴ The Committee further asserts that after Kern registered as a candidate, the Committee filed amended reports reflecting the Facebook costs.

12.21.18
Date

BY: Stephen Gura
Stephen Gura
Deputy Associate General Counsel

Jeff S. Jordan
Jeff S. Jordan
Assistant General Counsel

Kristina Portner
Kristina M. Portner
Attorney

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